

Change the heading of CHAPTER Env-A 2900 to read as follows:

CHAPTER Env-A 2900 ~~MULTIPLE POLLUTANT~~ ***SULFUR DIOXIDE AND NITROGEN OXIDES***
ANNUAL BUDGET TRADING AND BANKING PROGRAM

Statutory Authority: ***RSA 125-O:3***; RSA 125-O:8, I, ~~II, & III~~

Change the heading of PART Env-A 2901 to read as follows:

PART Env-A 2901 PURPOSE; ***APPLICABILITY***; ***REFERENCES***

Readopt with amendment Env-A 2901.01 through Env-A 2902.03, eff. 5-13-11 (doc. #9908, Interim), and renumber as Env-A 2901.01 through Env-A 2901.03, to read as follows:

Env-A 2901.01 Purpose. ~~In order-~~ ***The purpose of this chapter is*** to reduce emissions of sulfur dioxide (SO₂), ~~and~~ nitrogen oxides (NO_x), ~~mercury (Hg), and carbon dioxide (CO₂), the purpose of this chapter is to~~ ***by*** establishing:

- (a) New Hampshire's ~~multiple pollutant~~ ***SO₂ and NO_x*** annual budget trading and banking program;
- (b) The method for allocating allowances under that program; and
- (c) The requirements for emissions monitoring, recordkeeping, reporting, and automatic deduction of allowances to offset excess emissions.

~~PART Env-A 2902~~ ***APPLICABILITY***

Env-A ~~2902.01~~ ***2901.02*** Applicability.

(a) This chapter shall apply to ~~each owner or operator of an~~ affected sources ***as defined in RSA 125-O:2, I, namely "existing fossil fuel burning steam power plant units in this state, specifically Merrimack Units 1 and 2 in Bow, Schiller Units 4, 5, and 6 in Portsmouth; and Newington Unit 1 in Newington, excluding any of these units that may be repowered."***

~~Env-A 2902.02~~ Exclusion. (b) ~~Notwithstanding Env-A 2902.01, this chapter shall not apply to the owner or operator of an affected source upon commencement of operation after repowering. Because~~ ***Schiller Unit 5 commenced operation after repowering on October 20, 2006, that unit shall not be subject to this chapter.***

Env-A ~~2902.03~~ ***2901.03*** References. For the purpose of this chapter, unless otherwise specified, ***all references to 40 CFR 72 and 40 CFR 75 shall be to the July 1, 2002-2010 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 72 and 40 CFR 75.***

Readopt with amendment PART Env-A 2903 through PART Env-A 2914, eff. 5-13-11 (doc. #9908, Interim), and renumber as PART Env-A 2902 through PART Env-A 2910, to read as follows:

~~PART Env-A 2903~~ ***2902*** DEFINITIONS

Env-A ~~2903~~ ***2902.01*** "Account number" means the identification number ~~given~~ ***assigned*** by the allowance tracking system (ATS) administrator to an account in which allowances are held in ~~the~~ ***that*** ATS.

Env-A ~~2903~~ ***2902.02*** "Account" means the place in the ATS where allowances are recorded, ~~and~~ ***which includes one or more of the following:***

- (a) A compliance account;
- (b) A general account; ~~or~~ ***and***
- (c) An overdraft account.

Env-A ~~2903~~**2902**.03 “Acquiring account” means the ***account of the party-participant*** in an allowance transfer who obtains allowances through purchase, trade, ~~auction,~~ or gift, ***or at auction***.

Env-A ~~2903~~**2902**.04 “Affected sources” means “affected sources” as defined in RSA 125-O:2, I, namely, ~~“existing fossil fuel burning steam power plant units in this state, specifically Merrimack Units 1 and 2 in Bow, Schiller Units 4, 5, and 6 in Portsmouth; and Newington Unit 1 in Newington, excluding any of these units that may be repowered.”~~ ***as reprinted in Appendix B.***

Env-A ~~2903~~**2902**.05 “Allocate” means the initial assignment of allowances to an affected source through this chapter ~~and~~ ***which is*** recorded by the ATS administrator to an ATS account. The term includes “allocation.”

Env-A ~~2903~~**2902**.06 “Allowance” means “allowance” as defined in RSA 125-O:2, II, ~~namely, “a limited authorization to emit one ton of SO₂, one ton of NO_x, one pound of Hg mercury, or one ton of CO₂ during a specified calendar year.”~~ ***as reprinted in Appendix B, except that for purposes of this chapter, the term no longer includes mercury or CO₂.***

Env-A ~~2903~~**2902**.07 “Allowance deduction” means the withdrawal of allowances ***by the ATS administrator*** from an ATS account for permanent retirement ~~by the ATS administrator~~.

Env-A ~~2903~~**2902**.08 “Allowance tracking system (ATS)” means either:

(a) ~~A~~ ***The*** system operated and maintained by the U.S. Environmental Protection Agency (EPA) for tracking SO₂ allowance use for the acid rain program and for tracking the number of allowances held and used by any person; or

(b) A system operated and maintained by either EPA or the department for tracking annual NO_x ~~and CO₂~~ allowance use and for tracking the number of allowances held and used by any ~~person~~ ***account holder***.

Env-A ~~2903~~**2902**.09 “Allowance transfer” means the conveyance of one or more allowances from one account to another by whatever means, including but not limited to purchase, trade, ~~auction,~~ or gift ***at auction***, in accordance with the procedures established in this chapter, ~~effected by the submission of an allowance transfer request to the ATS administrator.~~

Env-A ~~2903~~**2902**.10 “Allowance transfer deadline” means ~~12:01 a.m. on January 31~~ and is the deadline, ***which is 12:01 a.m. on January 31***, for recording allowances in an affected source’s compliance or overdraft account for purposes of meeting the requirements of this chapter for the preceding calendar year.

Env-A ~~2903~~**2902**.11 “Alternative monitoring system” means a system, or a component of a system, ***that is*** designed to provide direct or indirect data of mass emissions per time period, pollutant concentration, or volumetric flow, as provided for in this chapter.

Env-A ~~2903~~**2902**.12 “ATS administrator” means ~~either:~~

(a) ***For an ATS operated and maintained by EPA,*** ~~t~~The administrator of EPA or the administrator’s authorized representative; or

(b) ***For an ATS operated and maintained by the department,*** ~~t~~The commissioner of the ~~New Hampshire department of environmental services (DES)~~ or the commissioner’s authorized representative.

Env-A ~~2903~~**2902**.13 “Authorized account representative (AAR)” means ~~the responsible person~~ ***an individual*** who ~~is~~ ***has been*** authorized, in writing, ***by the account holder*** to transfer and otherwise manage allowances as well as to certify reports to the ATS and the ETS.

Env-A ~~2903~~**2902**.14 “Banked allowance” means an allowance which is not used to reconcile emissions in the designated year of allocation but which is carried forward into the next year and flagged in the account as banked.

Env-A ~~2903.2902.15~~ **2902.15** “Banking” means the retention of unused allowances from one year for use in a future year.

Env-A ~~2903.2902.16~~ **2902.16** “Baseline power generation output” means the combined total megawatt-hours (MWh) produced by all affected sources during calendar year 1999, namely 4,859,247 MWh.

~~Env A 2903.17 “Bonus early allowance” means:~~

- ~~(a) For SO₂, banked SO₂ allowances under the federal acid rain program;~~
- ~~(b) For NO_x, banked NO_x allowances under Env A 3200 from any affected source and banked NO_x discrete emissions reductions (DERs) from affected sources other than Merrimack Station Units 1 and 2 under Env A 3100; and~~
- ~~(c) For CO₂, the amount of CO₂ allowances that could have been purchased at market price by the same dollar amount as the expenditure made after the effective date of this chapter and before December 31, 2006 by PSNH independent of SBC funds for energy efficiency projects, new renewable energy projects, and conservation and load management projects at each PSNH facility.~~

Env-A ~~2903.18~~ **2902.17** “Budget” means total combined annual allocations.

Env-A ~~2903.19~~ **2902.18** “Compliance account” means the ATS account for each affected source that holds current and future year allowances useable for a specific designated calendar year as indicated by their serial number.

Env-A ~~2903.20~~ **2902.19** “Discrete emission reduction (DER)” means “discrete emission reduction” as defined in the EPA's proposed Model Open Market Trading Rule, ***published at*** (60 FR 39668, August 3, 1995), namely, “an emission reduction generated over a discrete period of time, and measured in weight (e.g., tons).”

Env-A ~~2903.21~~ **2902.20** “Electric generating device” means any fossil fuel combustion device of 25 MW nameplate capacity or greater that provides electricity for sale or use.

Env-A ~~2903.22~~ **2902.21** “Electric output” means the ***amount of*** electricity ~~generation-generated~~, in MWh, ~~from~~**by** an electric generating device.

Env-A ~~2903.23~~ **2902.22** “Emissions tracking system (ETS)” means the computerized system operated and maintained by ~~the~~ EPA for tracking emissions for the Acid Rain Program; and for tracking emissions from affected sources.

Env-A ~~2903.24~~ **2902.23** “ETS administrator” means the administrator of EPA or ~~their~~ ***the administrator’s*** designated representative.

Env-A ~~2903.25~~ **2902.24** “Excess emissions” means ***the amount of*** emissions, rounded to the nearest whole ton, which are greater than the equivalent number of allowances ~~which are~~ available in the affected source’s compliance or overdraft account by the allowance transfer deadline for that year.

Env-A ~~2903.26~~ **2902.25** “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived wholly; or in part; from such material.

Env-A ~~2903.27~~ **2902.26** “General account” means an ATS account: ~~(a) That is not a compliance account or an overdraft account; and (b) Where allowances are held by any person.~~

Env A ~~2903.28~~ **2902.27** “Greenhouse gas (GHG)” means “greenhouse gas” as defined in RSA 125 L:1, IV, namely, ~~“means but is not limited to such gases as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.”~~

Env-A ~~2903.29~~**2902.27** “Heat input” means the heat derived from the combustion of fuel in an affected source not including the heat derived from preheated combustion air, recirculated flue gas, or exhaust from other sources.

Env-A ~~2903.30~~**2902.28** “Net electric output” means the final output of energy from a process after deducting any energy output consumed in any way related to generating energy through that process.

Env-A ~~2903.31~~**2902.29** “Nameplate capacity” means the maximum unrestricted electrical generating output, in MW, that a generator can sustain over a specified period of time.

Env-A ~~2903.32~~**2902.30** “Overdraft account” means the ATS account established by the ATS administrator for each facility where there are 2 or more affected sources, ~~and~~ where allowances ~~are~~***can be*** held by a group of affected sources.

Env-A ~~2903.33~~**2902.31** “Ozone transportation region (OTR)” means ~~the area designated by §184(a) of the Clean Air Act, as amended.~~***“ozone transport region” as defined in RSA 125-O:2, VI, as reprinted in Appendix B.***

Env-A 2902.32 “Person” means “person” as defined in RSA 125-O:2, VII, as reprinted in Appendix B.

Env-A ~~2903.34~~**2902.33** “PSNH” means Public Service Company of New Hampshire or ***any organizational unit thereof, and all*** its successor(s)-in-interests or assignee(s) ~~or any organizational unit thereof.~~

Env-A ~~2903.35~~**2902.34** “Recorded” for the purposes of an allowance transfer or deduction, means ~~that an ATS account that has been updated by the ATS administrator~~ ***has updated an ATS account*** with the particulars of an allowance transfer or deduction.

Env-A ~~2903.36~~**2902.35** “Renewable energy” means “renewable energy” as defined in RSA 125-O:2, VIII, namely, “energy derived from hydro, geothermal, wind, solar thermal, photovoltaic, biomass, methane waste, tidal, or other source approved by the department.” ***as reprinted in Appendix B.***

Env-A ~~2903.37~~**2902.36** “Repowered unit” means “repowered unit” as defined in RSA 125-O:2, IX, ***as reprinted in Appendix B.***

Env-A 2902.37 “Serial number” means the unique number assigned to a specific allowance by the ATS administrator, which identifies the allowance and indicates the year of allocation.

Env-A ~~2903.38~~**2902.38** “Submitted” means sent to the appropriate authority ~~ATS or ETS, as applicable,~~ under the signature of the AAR.

Env-A ~~2903.39~~ “System benefits charge funds (SBC funds)” means “system benefits charge funds” or “SBC funds” as defined in RSA 125-O:2, X, namely, “revenues collected by PSNH (currently at a rate of 1.8 mills (\$0.0018) per retail kilowatt hour sold as set by the general court in 2001, 29:14) to fund energy efficiency and conservation and load management programs approved by the public utilities commission.”

Env-A ~~2903.40~~ “Voluntary emission reduction (VER)” means a voluntary reduction of a greenhouse gas(es) generated over a discrete period of time, and measured in weight.

PART Env-A ~~2904~~2903** GENERAL PROVISIONS ALLOWANCES**

Env-A ~~2907~~**2903.01** Marketable Emissions Authorizations ***Legal Attributes of Allowances.***

(a) An allowance shall be a marketable emissions authorization that may be bought, sold, or traded at any time during any year, not just the current year.

~~Env-A 2904.04~~(~~ab~~) Neither ~~a~~An allowance ~~nor any~~***shall not be a property right or create a property right for any person.***

(c) ~~F~~future allocations ***shall not be a property right or create a property right for any person;*** which are subject to modification by the department,

(d) ***No allowance or future allocation*** shall constitute a security or other form of property.

~~Env-A 2904.01~~***2903.02 Limited Authorization Holding and Using Allowances.***

(a) The owner or operator of each affected source shall, no later than ~~January 30 of each calendar year~~***the allowance transfer deadline***, hold ***in the appropriate account for that affected source:***

(1) ~~respective A quantities of SO₂, NO_x, and CO₂ allowances in the affected source's respective ATS SO₂, NO_x, and CO₂ accounts equal to or greater than the respective total SO₂, NO_x, and CO₂ emitted from that affected source during the previous year; and~~

(2) ***A quantity of NO_x allowances equal to or greater than the total NO_x emitted from that affected source during the previous year.***

~~Env-A 2907.02~~(b) ***To use a***An allowance shall only be used for compliance with this program chapter in a designated compliance year, ***the allowance shall be:***

(1) ~~by being~~***Already*** in a compliance or overdraft account as of the allowance transfer deadline; ~~or by being~~

(2) ~~T~~ransferred into the compliance account by an allowance transfer submitted by the allowance transfer deadline.

(~~bc~~) ~~All~~A allowances shall be allocated, transferred, or used ***only*** as whole allowances.

(~~ed~~) ~~To determine~~***If allowances are held in fractional amounts***, the number of whole allowances, ***available shall be determined by the number of allowances shall be roundeding down for decimals if the fraction is less than 0.50 and roundeding up for decimals of if the fraction is 0.50 or greater.***

{(d) has been moved and renumbered as Env-A 2903.03(a)-(b)}

~~Env-A 2904.04~~(~~be~~) An allowance shall not be used prior to the year for which the allowance is allocated.

~~Env-A 2904.02~~***2903.03 Conversion of NO_x Allowances to DERs or VERs.***

~~Env-A 2904.01~~(~~da~~) Allowances ***under this chapter*** shall not be considered offsets ***as defined in RSA 125-J:1, XII***, for purposes of this chapter, ~~although~~***however*** NO_x allowances which ~~that~~ are not used to satisfy the requirements of this chapter; and ~~which that~~ are not banked; may be converted to non-ozone season NO_x DERs in accordance with Env-A 3100.

(b) Each affected source ~~that converts~~***for which*** unused NO_x allowances ***are converted*** to NO_x DERs in accordance with ~~Env-A 2904.01(d) and the procedures for DER generation pursuant to Env-A 3103;~~ ~~or that converts unused CO₂ allowances to VERs in accordance with Env-A 3800;~~ shall surrender those converted allowances as if they had been used for actual emissions.

~~Env-A 2904.03~~***2903.04 Repowering.*** ~~Each~~***Any*** affected source that repowers after the ***original*** effective date of this chapter; shall no longer receive allowances beginning on the date of commencement of operation after repowering.

~~Env-A 2904.04 Prohibition on Property Rights.~~

{(a) has been moved and renumbered as Env-A 2903.01(b), (c), and (d)}

{(b) has been moved and renumbered as Env-A 2903.02(e)}

PART ~~Env-A 2905~~**2904** ANNUAL EMISSION BUDGETS; ~~FOR 2007 AND SUBSEQUENT YEARS~~
ALLOWANCE ALLOCATION

Env-A ~~2905~~**2904.01** SO₂ Budget.

~~(ba)~~ ***Subject to (b), below, t***The annual SO₂ budget shall be determined by multiplying the combined baseline power generation from the affected sources by 3.0 pounds per MWh.

~~(ab)~~ The annual SO₂ budget shall be no more than 7,289 tons.

Env-A ~~2905~~**2904.02** NO_x Budget.

~~(ba)~~ ***Subject to (b), below, t***The annual NO_x budget shall be determined by multiplying the combined baseline power generation from the affected sources by 1.5 pounds per MWh, ***and then subtracting the seasonal NO_x allowances allocated to PSNH pursuant to Env-A 3200.***

~~(ab)~~ The annual NO_x budget, ~~shall be no more than 3,644 tons~~ including the seasonal NO_x allowances allocated to each affected source pursuant to Env-A 3200, ***shall be no more than 3,644 tons.***

~~Env-A 2905.03 CO₂ Budget.~~

~~(a) The annual CO₂ budget shall be no more than 5,425,866 tons.~~

~~(b) The annual CO₂ budget shall be determined by multiplying the combined 1990 CO₂ emissions from the affected sources by 1.0.~~

PART ~~Env-A 2906~~ ALLOWANCE ALLOCATION

Env-A ~~2906.01~~**2904.03** Implementation Allocation of the Emission Budgets.

(a) The department shall ~~implement~~ ***allocate the allowances in*** each emission budget prepared pursuant to Env-A 2905 ***determined as specified in Env-A 2904.01 and Env-A 2904.02*** by allocating allowances to each ~~the~~ affected sources beginning on December 31, 2006 and of each year thereafter.

(b) Allowances shall be allocated using the methodology specified in Env-A 2904.05.

~~(b) Unused allowances may be banked, traded, or retired in accordance with this chapter.~~

Env-A ~~2906.02~~**2904.04** Allocation-Transfer of SO₂ Allowances. ~~(a) As required by RSA 125-O:4, IV(a)(2), e~~Each affected source shall transfer to the department all post-2006 annual SO₂ allowance allocations provided under the federal acid rain program.

~~(b) The department shall allocate 7,289 SO₂ allowances among the affected sources annually.~~

~~Env-A 2906.03 Allocation of NO_x Allowances.~~

~~(a) The department shall calculate the difference between the annual NO_x budget pursuant to Env-A 2906.02 and the seasonal NO_x allowances allocated to PSNH pursuant to Env-A 3200.~~ ***now covered by Env-A 2904.02(a)***

~~(b) The department shall allocate an amount of NO_x allowances equivalent to the difference calculated in (a), above, among the affected source annually.~~ ***redundant of Env-A 2904.03***

Env-A ~~2906.04~~ Allocation of CO₂ Allowances. The department shall allocate 5,425,866 CO₂ allowances among the affected sources annually.

Env-A ~~2906~~**2904.05** Allowance Allocation Methodology.

(a) By ~~April 30, 2006 and by~~ April 30 of each year ~~thereafter~~, the department shall calculate allowance allocations for each affected source for ~~2007 and each~~ ***the following*** year ~~thereafter~~ in accordance with (c), ~~(d),~~ ***through*** (e), and ~~(f)~~ below.

(b) The department shall submit the allowance allocations for ~~2007 and each year thereafter~~ to the ATS administrator.

(c) ***The following shall apply to the calculations of*** the number of allowances to be allocated to each affected source ~~for the purposes of specified in (d), and (e), and (f) below, the following shall apply:~~

(1) ***EB_{NOx} means the NOx emissions budget determined as specified in Env-A 2904.02;***

(2) ***EB_{SO2} means the SO₂ emissions budget determined as specified in Env-A 2904.01;***

~~(13)~~ EO(y-2) means an affected source's net electrical output in MWh for the year ***that was*** 2 years prior to y;

~~(24)~~ EO(y-3) means an affected source's net electrical output in MWh for the year ***that was*** 3 years prior to y;

~~(35)~~ UAA(y) means an affected source's allocation for year y, adjusted so that the total allocation does not exceed the budget; and

~~(46)~~ UUA(y) means an affected source's unadjusted allocation for year y.

(d) ~~To calculate the adjusted SO₂ allocation for each individual affected source, for each year after 2006 shall be calculated as follows:~~

(1) The affected source's ***unadjusted allocation for the current year shall be determined by multiplying the*** average net electrical output ***of the affected source*** in MWh for the years 2 and 3 years prior to the current year ~~shall be multiplied by 3.0 lbs per MWh, and divided the result by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as shown in the formula below:~~

$$UUA(y) = \frac{[(EO(y-2) + EO(y-3))/2] \times 3.0 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

(2) The ~~product,~~ ***affected source's adjusted allocation for the current year shall be determined by multiplying the UUA(y) calculated in pursuant to (1), above, shall be multiplied by the total SO₂ allocation pursuant to Env-A 2906.02, emissions budget and divided the result by the sum of all affected sources' unadjusted allocations, as shown in the formula below:***

$$UAA(y) = \frac{UUA(y) \times 7,289 - EB_{SO2}}{\text{sum of all affected sources' UUA}(y)}$$

(e) ~~To calculate the adjusted NOx allocation for each individual affected source, for each year after 2006 shall be calculated as follows:~~

(1) The affected source's ***unadjusted allocation for the current year shall be determined by multiplying the*** average net electrical output ***of the affected source*** in MWh for the years 2 and 3 years prior to the current year ~~shall be multiplied by 1.5 lbs per MWh, and divided the result by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as shown in the formula below:~~

$$UUA(y) = \frac{[(EO(y-2) + EO(y-3))/2] \times 1.5 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

(2) The product, ***affected source's adjusted allocation for the current year shall be determined by multiplying the UUA(y) calculated in-pursuant to (1), above, shall be multiplied by the total NOx allocation pursuant to Env A 2906.03, emissions budget and divided the result by the sum of all affected sources' unadjusted allocations, as shown in the formula below:***

$$UAA(y) = \frac{UUA(y) \times \text{total NOx allocation } EB_{NOx}}{\text{sum of all affected sources' UUA}(y)}$$

~~(f) To calculate the adjusted CO₂ allocation for each individual affected source, for each year after 2006:~~

~~(1) The affected source's average net electrical output in MWh for the years 2 and 3 years prior to the current year shall be multiplied by 2,067.3 lbs per MWh and divided by 2,000 lb/ton to calculate the affected source's unadjusted allocation for the current year, as in the formula below:~~

$$UUA(y) = \frac{((EO(y-2) + EO(y-3))/2) \times 2,067.3 \text{ lbs/MWh}}{2,000 \text{ lb/ton}}$$

~~(2) The product, as calculated in (1) above, shall be multiplied by the total CO₂ allocation pursuant to Env A 2906.04, and divided by the sum of all affected sources' unadjusted allocations, as in the formula below:~~

$$UAA(y) = \frac{UUA(y) \times 5,425,866}{\text{sum of all affected sources' UUA}(y)}$$

~~(g)~~ Using the best available data as reported by the affected source to the Energy Information Administration and to the department no later than April 15 of each year, the department shall determine the net electric output for the affected source.

Env A 2906.06 ~~Energy Efficiency, New Renewable Energy, and Conservation and Load Management Bonus Allocation:~~

~~(a) The department shall allocate bonus CO₂ allowances to each affected source for each year, beginning in 2008, for expenditures made by the affected source independent of SBC funds for energy efficiency projects, new renewable energy projects, and conservation and load management projects occurring in the previous year at each PSNH facility.~~

~~(b) The amount of bonus CO₂ allowances allocated shall equal the amount of CO₂ allowances that could have been purchased at market prices by the same dollar amount as the expenditure made.~~

~~(c) The AAR of each affected source may submit a written request to the department no later than April 15 of each year requesting that the department distribute bonus CO₂ allowances to the affected source.~~

~~(d) The request shall include the following information:~~

~~(1) A signed statement certifying that the projects were consistent with the core energy efficiency programs approved by the public utilities commission (PUC) and shall, to the greatest extent practicable, result in immediate, demonstrable energy improvements;~~

~~(2) An assessment of the current market value of the bonus CO₂ allowances and costs of the expenditures made; and~~

~~(3) A statement certifying that emission reductions that are converted to bonus CO₂ allowances shall not be used under any other program.~~

Env-A 2906.07**2904.06** ~~Bonus~~ Allocation of **Bonus** SO₂ Allowances.

~~(a) The department~~ ***Each affected source*** shall allocate ~~be eligible to receive~~ bonus SO₂ allowances to each affected source for each year, beginning in 2008, for local reductions made by the affected source in the previous year.

~~(eb)~~ ***To receive an allocation of bonus SO₂ allowances for local reductions, t***he AAR of an affected source shall submit a written request to the department, ~~including requesting the department to distribute bonus SO₂ allowances to the general account of the affected source for the affected source's local reductions.~~

(c) ***The request submitted pursuant to (b), above, shall:***

(1) ***Include detailed calculations of that show the difference between the affected source's annual average SO₂ emissions for the 3 years prior to the previous year and the annual SO₂ emissions for the previous year 3-year average SO₂ emissions and the proposed amount of bonus SO₂ allowances to be allocated; and***

(2) ***Be submitted*** no later than April 15 of each year ~~requesting that the department distribute bonus SO₂ allowances for local reductions to the general account of the affected source.~~

(bd) ***Subject to (h), below, in response to a request that complies with (c), above, t***~~The amount of department shall allocate~~ bonus SO₂ allowances ~~allocated for local reductions shall equal to~~ the difference between the ***affected source's*** annual average SO₂ emissions for the 3 years prior to the previous year and the annual SO₂ emissions for the previous year.

(de) ~~Beginning in 2008, the department~~ ***Each affected source also shall allocate-be eligible to receive one bonus SO₂ allowance to each affected source per year for every 4 SO₂ allowances that were: initially allocated to a source located within the OTR and subsequently (1)-purchased by the affected source under the federal acid rain program; (2) and u***~~Used for compliance with the provisions of this chapter in the previous year; and~~

(3) ~~Initially allocated to any source located within the OTR.~~

(ef) ***To receive an allocation of bonus SO₂ allowances pursuant to (e), above, t***~~The AAR of each the affected source shall submit a written request to the department, including requesting the department to distribute bonus SO₂ allowances to the general account of the affected source for the affected source's allowances which meet the criteria specified in (e), above.~~

(g) ***The request submitted pursuant to (f), above, shall:***

(1) ***Identify the serial numbers for-of all SO₂ allowances being used to qualify for the bonus allowances; and a statement identifying***

(2) ***Provide*** the name and location of ~~the-each~~ source to which the allowances were initially allocated, ***and***

(3) ***Be submitted*** no later than April 15. ~~of each year, requesting that the department distribute bonus SO₂ allowances for allowances purchased from within the OTR to the general account of the affected source.~~

(h) ***Subject to (i), below, in response to a request that complies with (g), above, the department shall allocate one bonus SO₂ allowance per year for every 4 SO₂ allowances that initially was allocated to a source located within the OTR and subsequently purchased by the affected source under the federal acid rain program and used for compliance with this chapter in the previous year.***

(fi) The combined sum of all bonus SO₂ allowances received by the affected sources shall not exceed 20,000 in any given year.

PART Env-A ~~2907~~**2905** ALLOWANCE TRANSFER AND ~~USE~~**BANKING**

{Env-A 2907.01 has been moved and renumbered as Env-A 2903.01(a)}

~~Env-A 2907.02 Limited Authorizations.~~

{text has been moved and renumbered as Env-A 2903.02(b)}

Env-A ~~2907.03~~**2905.01** ***Initiating an Allowance Transfer Procedures.*** ~~The following procedures shall be employed to enact an allowance transfer:~~

(a) ***To initiate an allowance transfer,*** ~~t~~The AAR for the originating account shall:

(1) ***Prepare a transfer request as specified in (b), below;***

(2) ~~A~~authorize and certify the transfer request ***by signing the statement specified in (c), below;***

(~~b~~3) ~~Send t~~The transfer request shall be sent in writing or in electronic form to the ATS administrator; ***and***

(~~e~~4) ~~The AAR for the originating account shall p~~Provide a copy of the transfer request to each owner or operator of the affected source; ***and***.

(~~eb~~) The transfer request, ~~submitted pursuant to (b) above,~~ shall contain the following information:

(1) The account number ~~identifying both of~~ the originating account and ***of*** the acquiring account;

(2) The name and address associated with the owner(s) of the originating account and ***of*** the acquiring account; ***and***

(3) The serial number ~~for of~~ each allowance being transferred; ***and***.

(4c) ~~A~~***The authorization and certification*** statement of certification ~~shall stated verbatim read~~ as follows:

“I am authorized to make this submission on behalf of the owners and operators of the affected source and I hereby certify, under penalty of law, that I have personally examined the foregoing and am familiar with the information contained in this document; and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment.”

Env-A ~~2907.04~~**2905.02** Transfer Processing. The ATS administrator shall process transfer requests in order of receipt.

Env-A ~~2907.05~~**2905.03** Transfer Completion. The transfer shall be complete when the ATS administrator has verified ~~the following information that:~~

(a) Each allowance listed in the transfer request is held by the originating account at the time the transfer was recorded;

(b) The acquiring party has an account in the ATS; and

(c) The transfer request ~~has been~~***was*** filed by the person named as AAR for the originating account.

Env-A ~~2907.06~~**2905.04** Transfer Validation. The ATS administrator shall record allowance transfers determined to be valid, through verification by the ATS administrator, in the ATS by deducting the specified allowances from the originating account and adding ~~it~~***the allowances*** to the acquiring account.

Env-A ~~2907.07~~**2905.05** Transfer Notification.

(a) The ATS administrator shall send ***written or electronic*** notification of an allowance transfer to ~~the following:~~

(1) The AAR for the originating account; and

(2) The AAR for the acquiring account.

(b) The notification ***sent*** pursuant to (a) above, shall include ~~the following information:~~

- (1) The effective date of the transfer;
- (2) Identification of the originating account and the acquiring account by name and by-account number; ~~and~~
- (3) The number of allowances transferred; and ~~their~~
- (4) ***The serial numbers of each allowance transferred.***

~~(c) The notification pursuant to (a) above, shall be sent in writing or in electronic form.~~ {merged into (a)}

Env-A ~~2907.08~~**2905.06** Price Disclosure. Subject to a claim of confidentiality in accordance with Env-A 103, each affected source shall make available to any person, all information regarding transaction cost and allowance price.

Env-A ~~2907.09~~**2905.07** Use of Allowances by Utilities. Pursuant to RSA 125-J:5, X, the use of allowances by a utility, as defined in RSA 362:2, shall be subject to such additional conditions as ***are*** ordered ***by the New Hampshire public utilities commission*** pursuant to applicable law ~~by the PUC its authority~~.

~~PART Env-A 2908~~ ALLOWANCE BANKING

~~Env-A 2908.01 Retention of Unused Allowances. The banking of allowances shall be permitted to allow the retention of unused allowances from one year to a future year in either a compliance account, an overdraft account, or a general account.~~

Env-A ~~2908.02~~**2905.08** ~~Account Designation~~ ***Banking Unused Allowances.***

(a) ***Any allowances remaining in an account after the ATS administrator has made all deductions for a given year from the compliance account or overdraft account pursuant to Env-A 2908.03 shall be designated as unused allowances.***

(b) ~~Unless otherwise permitted pursuant to Env-A 2909.03, u~~Unused allowances as of the end of the allowance transfer deadline, shall ~~may~~ be retained, ***or banked, for use in a future year*** in the ~~a~~ compliance, overdraft, or general account. ~~and designated as banked allowances after the ATS administrator has made all deductions for a given year from the compliance account or overdraft account pursuant to Env-A 2913.~~

~~Env-A 2908.03 Bonus Early Allowances.~~

~~(a) Bonus early allowances shall be eligible for a one-time conversion to allowances in 2007.~~

~~(b) Bonus early allowances that are converted to allowances shall not be used as VERs, ERCs, or DERs.~~

~~Env-A 2908.04 Bonus Early Allowances Report. In accordance with RSA 91-A, the department shall make available to any person, a report documenting the number of bonus early allowances converted to allowances for use in 2007.~~

~~PART Env-A 2909~~**2906** ALLOWANCE TRACKING SYSTEM (ATS)

Env-A ~~2909~~**2906.01** Database Maintenance for Allowance Transfer and Use.

(a) The ATS administrator shall maintain the ATS as the official database for all ***SO₂ and NO_x*** allowance use and transfer.

(b) The ATS administrator shall track and maintain the following information:

- (1) The allowances allocated to each affected source;
- (2) The allowances held in each account;
- (3) The allowances used by each affected source during each year;
- (4) The accounts established for each affected source to determine compliance for the source;
- (5) The accounts opened by individuals or entities, upon request, which are not used to ~~determine for~~ ***compliance purposes***;
- (6) The allowance transfers, as submitted voluntarily by the source; and
- (7) The deductions of allowances for compliance purposes.

Env-A ~~2909~~**2906**.02 Compliance and Overdraft Accounts.

(a) The ATS administrator shall ~~establish 6 compliance accounts and 3 overdraft accounts.~~
maintain:

- (1) ***A compliance account for each unit at the affected sources; and***
- (2) ***An overdraft account for each owner or operator of one or more units.***

(b) The ATS administrator shall ~~label~~ ***identify*** each account ~~with~~ ***using*** an account number.

(c) The ATS administrator shall maintain the following information for each compliance and each overdraft account:

- (1) The name ***and mailing address*** of ~~the~~ account owner;
- ~~(2) The mailing address of account owner;~~
- ~~(3) The name, mailing address, and telephone number of the AAR for the account; and~~
- ~~(4) The mailing address of AAR;~~
- ~~(5) The phone number of AAR;~~
- ~~(6) The physical location, by street address and municipality, of associated the affected source; and~~
- ~~(7) The state in which the affected source is located.~~

Env-A ~~2909~~**2906**.03 General Accounts.

(a) The ATS administrator shall allow ~~for the establishment of~~ general accounts ***to be established***.

(b) Any person ~~or group may wishing to~~ open a general account ~~by~~ ***shall:***

- (1) ~~Designating~~ ***an AAR as described in Env-A 2906.04; and***
- (2) ~~Providing the ATS administrator with~~ an account certificate of representation ***prepared*** in accordance with ~~Env-A 2909.04 and Env-A 2909~~**2906**.05, ***respectively to the ATS administrator.***

Env-A ~~2909~~**2906**.04 Authorized Account Representative.

~~(a) Only the AAR or alternate AAR shall request transfers of allowances in an ATS account.~~

~~(b) For each~~ ***holder of a*** compliance account, overdraft account, or general account; ***shall designate one individual to be the AAR for the account and one individual to be the alternate AAR for the account.*** ~~shall be identified to represent the owner or operator of the affected source or the owner of a general account.~~

~~(c) The AAR or alternate AAR shall be responsible for all transactions and reports submitted to the ATS.~~

~~(db)~~ The alternate AAR shall have the same authority ***to initiate allowance transfers and file reports*** as the ~~primary representative AAR~~, however, all correspondence from the ATS administrator shall be directed to the primary AAR.

~~(e) The requirements for an AAR shall apply to both the owners of a general account and to the owner or operator of an affected source's compliance account and overdraft account.~~

Env-A ~~2909~~**2906**.05 Account Certificate of Representation.

(a) The ATS administrator shall officially ***accept the*** designated ~~the~~ ***AAR for an account*** upon receipt of an Account Certificate of Representation (ACR) ~~by~~ ***from*** the AAR.

(b) The ACR shall contain the following information ~~in an agreement of representation~~:

(1) ~~The i~~Identification of the affected source by plant name, ~~state~~ ***address***, and boiler ~~unit~~ number;

(2) ***The number of the account*** for which the ACR ~~for each compliance account is being~~ submitted;

(23) The name, ***mailing*** address, ***and*** telephone number, ~~and facsimile number~~ of the authorized AAR and ~~any alternate AAR and, if available, a fax number and e-mail address~~; and

(34) ~~A list~~ ***The name*** of the ~~each~~ owner(s) and operator(s) of the affected source ~~for each compliance account~~.

(c) The AAR or alternate AAR shall sign the ~~account certificate of representation~~ ***ACR***.

(d) The ~~ACR for each compliance account~~ ***signature of the AAR or alternate AAR*** shall contain ***constitute agreement with*** the following statement, ***which shall be included*** verbatim ***in the ACR***:

"I certify that I, (name of AAR or alternate AAR) ~~was selected~~ ***have been designated*** as the AAR / ***alternate AAR (select one)*** as applicable by an agreement binding on the owners and operators of the affected source legally designated as (name of plant) . I certify that I have all ~~of the necessary~~ ***authority necessary*** to carry out my duties and responsibilities under the ~~Multiple Pollutant~~ ***SO₂ and NO_x*** Annual Budget Trading and Banking Program on behalf of the owners and operators of the affected source and of each unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department, the administrator, or a court regarding the source or unit."

~~(e) The designation of an AAR for each affected source shall be completed no later than 10 days after the effective date of this chapter.~~

~~(fe)~~ A new AAR shall be designated by submitting a revised ACR to the ATS administrator, with the following information:

(1) All of the information pursuant to (b) and (c), above; and

(2) The name of the AAR who is being replaced.

~~(gf)~~ The ATS administrator shall record the change of AAR in the ATS.

(hg) After the change of AAR has been recorded, the ATS administrator shall send notification of the change of AAR to the department.

~~Env-A 2909.06 Serial Numbers.~~

- (a) ~~Each facility account shall have an identification number.~~ **redundant of Env-A 2906.02(b)**
(b) ~~The ATS administrator shall assign a serial number that indicates the year of allocation to each allowance.~~ **now covered by definition of “serial number”**

PART Env-A ~~2910~~**2907** EMISSIONS MONITORING AND REPORTING

Env-A ~~2910~~**2907.01** ~~General Requirements~~ ***Emissions Monitoring and Reporting Required.***

(a) The owner(s), operator(s), and ~~the AAR,~~ of each affected source shall comply with the ***emissions*** monitoring and reporting requirements as ~~provided~~ ***specified*** in this part and ***as specified*** in 40 CFR 75, Subpart H.

(b) For purposes of complying with ~~the requirements of~~ (a), above, the definitions in 40 CFR §72.2 and 40 CFR 75 shall apply, except that:

- (1) The term “affected unit” shall be replaced with the term “affected source” as defined in Env-A ~~2903.04~~**2902.04**; and
- (2) The term “designated representative” shall be replaced with the term “AAR” as defined in Env-A ~~2903.13~~**2902.13**.

Env-A ~~2910~~**2907.02** ~~Requirements for Installation, Certification,~~ ***Emissions Monitoring Systems and Data Accounting.*** ~~No later than 10 days after the effective date of this chapter, t~~The owner or operator of each affected source shall:

- (a) ~~Install~~ ***Maintain*** all monitoring systems required ***to be installed*** under this part ~~Env-A 2910.02 as effective May 13, 2003 for the purposes of~~ monitoring mass emissions, including all systems ~~required to that~~ monitor emission rate, concentration, heat input, net electrical output, and flow, in accordance with 40 CFR 75;
- (b) Successfully complete all certification tests required and meet all other provisions of this part and 40 CFR 75 applicable to the monitoring systems ~~under paragraph identified in~~ (a), above; and
- (c) Record and report data from the monitoring systems ~~under paragraph identified in~~ (a), above.

Env-A ~~2910~~**2907.03** ~~Prohibitions~~ ***Unapproved Modifications to Monitoring Systems Prohibited.***

- (a) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval from the department and EPA in accordance with this part.
- (b) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this part and 40 CFR 75, except as provided ~~for in~~ 40 CFR §75.74.
- (c) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, ***or*** any portion thereof, or any other approved emission monitoring method, except for periods of recertification or periods when calibration, quality assurance testing, or

maintenance is performed in accordance with the applicable provisions of this part and 40 CFR 75, except as provided ~~for in~~ 40 CFR §75.74.

(d) No owner or operator of any source monitored under 40 CFR §75.72(b)(2)(ii) shall permanently discontinue the use of the continuous emission monitoring system, ***or*** any component thereof, or any other approved emission monitoring system under this part, except under any one of the following circumstances:

(1) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, ***for use at that unit*** in accordance with the applicable provisions of this part and 40 CFR 75, ~~by the department for use at that unit that~~ ***based on the system*** providing emission data for the same pollutant or parameter as the discontinued monitoring system; or

(2) The AAR submits notification to the department and the ETS administrator of the date of certification testing of a replacement monitoring system in accordance with the applicable provisions of this part.

Env-A ~~2910~~**2907**.04 Initial Certification and Recertification Procedures. The owner or operator of an affected source shall comply with the initial certification and recertification procedures of 40 CFR 75.

Env-A ~~2910~~**2907**.05 Certification/Recertification Procedures for Alternative Monitoring Systems.

(a) The AAR of each unit ~~applying for which an application for approval~~ to use an alternative monitoring system ~~approved by~~ ***is being submitted to*** the ATS administrator and, if applicable, the department, under 40 CFR 75, Subpart E, shall apply for certification to the department prior to ~~use of~~ ***using*** the system ~~under to comply with~~ this chapter.

(b) The AAR shall apply for recertification following a replacement ***of***, or modification ***to, an alternative monitoring system*** ~~according to~~ ***by following*** the ***same*** procedures ***as are required for initial certification and recertification as specified*** in ~~Env-A 2910.04~~ ***40 CFR 75***.

(c) The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification ~~according to~~ ***by following*** the ***same*** procedures ***as are required for notification and application relative to initial certification and recertification, as*** specified in ~~Env-A 2910.04 and 40 CFR §75.20(f)~~.

Env-A ~~2910~~**2907**.06 Out of Control Periods.

(a) Whenever any monitoring system fails to meet the quality assurance requirements of 40 CFR 75, Appendix B, data shall be substituted using the applicable procedures in 40 CFR 75, Subpart D, Appendix D or Appendix E.

(b) Whenever ~~both~~ an audit of a monitoring system and a review of the initial certification or recertification application ***both*** reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under this part or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the department shall issue a notice of disapproval of the certification status of such system or component to the owner or operator of the affected source.

(c) For the purposes of this section, an audit shall be either a field audit or an audit of any information submitted to the department or the ATS administrator.

(d) The data measured and recorded by ~~the a~~ system or component ***for which a notice of disapproval has been issued pursuant to (b), above***, shall not be considered valid quality-assured data from the date of issuance of the notification of the disapproval of certification status until the date and time that

the owner or operator completes subsequently approved initial certification or recertification tests in accordance with Env-A ~~29102907.04~~ or Env-A ~~29102907.05~~, ***as applicable***.

(e) The owner or operator of an affected source shall follow the initial certification or recertification procedures for each disapproved system in accordance with Env-A ~~29102907.04~~ or Env-A ~~29102907.05~~.

Env-A ~~29102907.07~~ Notification. The AAR for an affected source shall comply with the notification requirements of 40 CFR §75.61, except that the notice shall also be submitted to the ATS administrator.

Env-A ~~29102907.08~~ Recordkeeping and Reporting ~~General Provisions of Transactions Required~~.

(a) The AAR shall comply with all recordkeeping and reporting requirements ***relative to acquisitions and transfers of allowances specified*** in this part and ~~with the requirements of in~~ Env-A ~~2909.052905~~.

(b) Any submission made in accordance with 40 CFR 75, Subpart F or Subpart G which includes data and information required under this part or ~~of under~~ 40 CFR 75, Subpart H, shall be signed by both the AAR and the designated representative as defined in Env-A 101.~~6061~~.

Env-A ~~29102907.09~~ Monitoring Plans. The owner or operator of an affected source shall comply with the requirements of 40 CFR §75.62, except that the monitoring plan shall also include all of the information required by 40 CFR 75, Subpart H.

Env-A ~~29102907.10~~ Certification Applications.

(a) The AAR shall submit an application to the department within 45 days after completing all initial certification or recertification tests ~~including~~.

(b) ***The application submitted pursuant to (a), above, shall include*** the information required under 40 CFR 75, Subpart H.

Env-A ~~29102907.11~~ Quarterly Reports.

(a) The AAR shall submit a quarterly report: ~~(1) For each calendar quarter beginning with the calendar quarter that includes the date and hour of initial certification;~~

~~(2b)~~ ***The AAR shall submit the reports required by (a), above, to*** the ATS administrator within 30 days following the end of the calendar quarter covered by the report; ~~(3) In the manner specified in 40 CFR 75, Subpart H and 40 CFR §75.64; and~~

~~(4c)~~ ***Each report required by (a), above, shall include:***

(1) ~~All of the data and information required in of by 40 CFR 75, Subpart H for each affected source; or group of units using a common stack; as well as~~

(2) ***The*** information required ~~in of by~~ 40 CFR 75, Subpart G; ***and***

~~(b3) The AAR shall submit to the ATS administrator a~~ compliance certification in support of ~~each quarterly the~~ report based on an inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored.

~~(ed)~~ The certification ~~pursuant to required by (bc)~~ above, shall state that:

(1) The monitoring data submitted were recorded in accordance with the applicable requirements of this part and 40 CFR 75, including the quality assurance procedures and specifications;

(2) For a unit with add-on emission controls and for all hours where data are substituted in accordance with 40 CFR §75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the monitoring plan and the substitute values do not systematically underestimate emissions; and

(3) The emission rate and concentration values substituted for missing data under of 40 CFR 75, Subpart D do not systematically underestimate emissions.

~~PART Env-A 2911~~ REPORTING

Env-A ~~2911.01~~***2907.12*** ***Reporting in Electronic Format.***

(a) The AAR for each affected source shall submit, in electronic format using EPA's electronic data reporting (EDR) convention, emissions and operations information as specified in ~~Env-A 2910~~***this part.***

(b) Emissions and operations information shall be submitted to the ETS administrator within 30 days of the end of any quarter in which the owner or operator is required to report.

Env-A ~~2911.02~~***2907.13*** ***Pounds per Hour and Pounds per Year.*** The owner or operator of each affected source shall provide the ETS administrator, in the same quarterly reports; and in a format consistent with ~~Env-A 2911.01~~***the format required under Env-A 2907.12***, SO₂~~5~~***and*** NO_x~~7~~***and*** CO₂ emissions in pounds per hour for every hour during the year and cumulative quarterly and annual SO₂***and*** NO_x~~7~~***and*** CO₂ emission data in pounds.

Env-A ~~2911.03~~***2907.14*** ***Quarterly Reporting.*** Each affected source shall submit the data required pursuant to Env-A ~~2911.01~~***2907.12*** and Env-A ~~2911.02~~***2907.13*** to EPA as part of the quarterly reports submitted to EPA for the purpose of compliance with 40 CFR 75.

~~PART Env-A 2912~~***2908*** END-OF-~~SEASON~~***YEAR*** RECONCILIATION

Env-A ~~2912~~***2908.01*** ***Determination of Compliance.*** ***The department shall determine compliance with this chapter based on:***

(a) Monitored emissions data as reported by the affected source to the ETS administrator, and as adjusted by the administrator to be in accordance with Env-A ~~2910~~***2907******; and combined with***

(b) ~~A~~***allowance*** allocations and transfers recorded in the ATS~~;~~ ***shall provide the basis for a determination of compliance with this chapter.***

Env-A ~~2912~~***2908.02*** ***Request for Deduction of Allowances.***

(a) ~~Each year prior to January 30~~***No later than the allowance transfer deadline of each year***, the AAR shall request the ATS administrator to deduct ~~previous year~~***available for the previous year*** from the compliance account or overdraft account, ***or both, in an amount*** equivalent to the number of ~~available allowances~~***required*** to cover the emissions during the previous year.

~~(b) The AAR shall submit the request to the ATS administrator no later than the allowance transfer deadline, January 30.~~

(eb) The ***request submitted pursuant to (a), above***, AAR shall identify:

(1) ~~The~~***the*** compliance account or overdraft account from which the deductions should be made;
and

(d2) The AAR shall identify the serial number of ~~the~~***each*** allowances to be deducted.

{(e) has been moved and renumbered as Env-A 2908.03(b)}

Env-A ~~2912~~**2908.03** Deduction of Allowances.

(a) ~~Regardless of the request for deductions submitted pursuant to Env-A 2912.02~~***In response to a request submitted pursuant to Env-A 2908.02 or if a request is not received,*** the ATS administrator shall deduct ~~a number of allowances equal to the previous year emissions~~ from the affected source's compliance account or overdraft account ***a number of allowances equal to the affected source's previous year emissions.*** ~~and determine whether~~

~~Env-A 2912.02 (eb)~~ If the AAR does not specify a serial number ***of each allowance to be deducted is not specified, the ATS administrator shall deduct*** allowances ~~usable for that compliance year shall be deducted~~ in the order of their arrival into the affected source's account, with allocated allowances being deducted first, followed by the deduction of transferred allowances.

(c) ~~If sufficient allowances are in the account equivalent to the emissions~~ ***are not available in the account, the ATS administrator shall notify the AAR of the deficiency.***

Env-A ~~2912~~**2908.04** Procurement of Additional Allowances. If the emissions of the affected source in the previous year exceed the allowances in the affected source's compliance account and overdraft account, the affected source shall obtain additional allowances by the allowance transfer deadline so the total number of allowances in the affected source's compliance account and overdraft account, including allowance transfers properly submitted to the ATS administrator by the allowance transfer deadline, equals or exceeds the previous year annual emissions rounded to the nearest whole ton.

PART Env-A ~~2913~~**2909** COMPLIANCE CERTIFICATION

Env-A ~~2913~~**2909.01** ~~Submittal~~***Annual Compliance Certification Required.*** For each year, ~~t~~The AAR for each affected source shall submit an annual compliance certification to the department ***no later than January 30 of each year.***

~~Env-A 2913.02~~ ~~Deadline.~~ The compliance certification shall be submitted by January 30 of each year. ***merged into Env-A 2909.01***

Env-A ~~2913.03~~**2909.02** ***Annual Compliance Certification Content.*** The compliance certification ***required by Env-A 2909.01*** shall contain the following information:

(a) Identification of the affected source, including:

(1) The name , ***mailing address, and physical location*** of the affected source;

~~(2) The address of the affected source;~~

~~(3) The name of the AAR; and~~

~~(4) The ATS account number;~~

(b) A statement whether emissions data has been submitted to the ETS: ~~(1) In accordance with the procedures established in Env-A 2911;2907 and (2) In conformance with the requirements of the ETS administrator;~~

(c) A statement whether the affected source:

(1) Operated in compliance with the allowances allocated for the year, including those obtained through transfer by the allowance transfer deadline;

(2) Held sufficient allowances in its compliance account and overdraft account for the year, as of the allowance transfer deadline, to equal or exceed the recorded emissions for the year; and

- (3) Was actually operated and maintained in accordance with the applicable monitoring plan;
- (d) A statement of certification that all emissions from the affected source were accounted for, either through: ~~(1) Applicable~~ monitoring ***in compliance with applicable requirements of this chapter***; or ~~(2) by a~~ Applying appropriate missing data procedures; and
- (e) A statement ~~to indicate of~~ whether there were any changes during the current year in the method of: ~~(1) Operating the affected source; or (2) M~~ monitoring the affected source.

Env-A ~~29132909~~.04 Compliance Verification. The department shall verify compliance by ***one or more of*** the following means, ***as needed to make an accurate compliance determination***:

- (a) Inspecting facility operating records;
- (b) Obtaining information on allowance deduction and transfers from the ATS;
- (c) Obtaining information on emissions from the ETS;
- (d) Information relative to testing emission monitoring devices; and
- (e) Requiring the affected source to conduct emissions testing under the supervision of the department.

PART Env-A ~~29142910~~ ENFORCEMENT PROVISIONS

Env-A ~~29142910~~.01 Automatic Deduction. If emissions from an affected source exceed allowances held in the affected source's compliance account or overdraft account for the year as of the allowance transfer deadline, the ATS administrator shall ~~automatically~~ deduct allowances from the affected source's compliance account or overdraft account for the next year at a rate of 3 allowances for every one ton of excess emissions.

Env-A ~~29142910~~.02 Determination of Violations. In accordance with RSA 125-O:7, for purposes of enforcement of this chapter, the following shall apply:

- (a) In determining the number of days of violation, any excess emissions for the year shall create a presumption that each day in the year of 365 days; constitutes a day in violation; ~~unless~~
- (b) The affected source can rebut the presumption established in (a), above, by demonstrating, through use of verifiable emission data, that a lesser number of days should be considered; and***
- ~~(bc)~~ Each ton of excess emissions shall constitute a separate violation.

APPENDIX A - STATUTES IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented
Env-A 2900 (also see specific sections listed below)	RSA 125-O:2; RSA 125-O:3; RSA 125-O:4; RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2903.03	RSA 125-O:4, IV(b)
Env-A 2903.04	RSA 125-O:2, I & IX
Env-A 2904.01	RSA 125-O:3, III(a)
Env-A 2904.02	RSA 125-O:3, III(b)
Env-A 2904.04	RSA 125-O:4, IV(a)(2)
Env-A 2904.05	RSA 125-O:8, I(b)
Env-A 2904.06	RSA 125-O:4, IV(a)(2), (3), & (4)
Env-A 2907.01	RSA 125-O:8, I(c)
Env-A 2908.01	RSA 125-O:4, IV intro
Env-A 2909.01	RSA 125-O:4, IV intro; RSA 125-O:8, I(b)
Env-A 2910.02	RSA 125-O:7

APPENDIX B - RELEVANT STATUTORY DEFINITIONS

RSA 125-O:2 Definitions. – In this chapter:

I. “Affected sources” means existing fossil fuel burning steam electric power plant units in this state, specifically Merrimack Units 1 and 2 in Bow; Schiller Units 4, 5, and 6 in Portsmouth; and Newington Unit 1 in Newington, excluding any of these units that may be repowered.

II. “Allowance” means a limited authorization to emit one ton of SO₂, one ton of NO_x, one pound of mercury, or one ton of CO₂ during a specified year.

III. “Commissioner” means the commissioner of the department of environmental services.

IV. “Department” means the department of environmental services.

V. “Discrete emission reduction” or “DER” means an emission reduction generated over a discrete period of time, and measured in weight (e.g., tons).

VI. “Ozone transport region” means the ozone transport region as established by section 184(a) of the Clean Air Act, 42 U.S.C. section 7511c.

VII. “Person” means any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties.

VIII. “Renewable energy” means energy derived from hydro, geothermal, wind, solar thermal, photovoltaic, biomass, methane waste, tidal, or other source approved by the department.

IX. “Repowered unit” means an affected source that has installed qualifying repowering technology as defined by 40 C.F.R. part 72, or has replaced a unit by a new unit, provided the new replacement unit:

(a) Is on the same or contiguous property as the replaced unit, regardless of owner;

(b) Has a maximum power output rate equal to or greater than the maximum power output rate of the replaced unit; and

(c) Is designed to control, or is equipped with best available technology to control, emissions of multiple pollutants simultaneously, and in conformity with the emissions rates and reductions used to establish RSA 125-O:3.